

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 6743 of 2016 (O&M)

Date of Decision : 04.11.2016

M/s D. Ram and Company and others

....Petitioners

Versus

Dayanand Medical College & Hospital Managing Society

....Respondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Namit Gautam, Advocate
for the petitioners.

Surinder Gupta, J.

In the ejectment petition filed by respondent, revision-petitioner moved application seeking amendment of written statement and production of original plan and application filed by respondent for sanction of plan, which was dismissed by learned Rent Controller, Ludhiana vide order dated 08.09.2016.

2. Vide application moved under Order VI Rule 17 of Code of Civil Procedure (Annexure P-6), revision-petitioner sought to add para 3-A in the written statement as follows:-

“3-A That during the pendency of the petition, the petitioner Society has constructed and installed an effluent treatment plant at the back of the tenancy premises in occupation of the respondent recently. The petitioner has also constructed and installed a power/electricity room in front of the seven storeyed college building, adjoining the main entrance abutting the Main Old DMC road. The college is fully functional and is totally operational. Thus, there is no need or necessity of the

petitioner. Moreover, the tenancy premises in occupation of the respondent are very small/negligible portion of the entire property. The entire property measures 3½ acres i.e. approx. 15000 sq. yards, and the petitioner are in possession of only 65 sq. yards situate in extreme corner of the property. The same is negligible part vis a vis the entire huge property measuring 3 ½ acres.”

3. Vide application (Annexure P-8), revision-petitioner sought production of following documents:-

- (a) All the plans submitted by the petitioner with the Municipal Corporation which have been sanctioned, alongwith receipts;
- (b) All the plans which were submitted by the petitioner with the Municipal Corporation, but were refused, alongwith the receipts regarding the submission and the refusal letter of M.C.;
- (c) Application for sanction of installation of effluent treatment plant submitted by the petitioner with the M.C. alongwith receipt, regarding which sanction is awaited.

4. In reply to application seeking amendment, landlord-respondent stated in para 3 as follows:-

“3.The structure of effluent treatment plant alongwith the machinery has been installed behind the back of the tenancy premises so that as and when the property in dispute is vacated by the respondent and

sanction is accorded by Municipal Corporation, Ludhiana, the said effluent treatment plant be made operational. The underground pipes for disposal of the waste water are yet to be connected with the Municipal sewer. As far as the room/electricity room is concerned, a make shift arrangement has been made on the front side of the property as a proper room for installation of the electric equipment has to be constructed near to the effluent plant. The electric equipment has been covered only by a temporary shed so as to utilize the power connection. Thus, it cannot be said that the effluent treatment plant or the power/electricity room are functional. Finishing work of the Principal's office is still in progress. The green belt which is visible in the photographs attached with this written reply has to be extended towards the entire frontage of the property owned by the petitioner. The photographs corroborate the submissions made by the petitioner in this written reply. Neither any photograph has been produced on record as claimed nor any copy of the same has been supplied to the petitioner. However, photographs taken by the petitioner are attached herewith.”

5. While replying the application of revision-petitioner seeking production of document, it was alleged that landlords has already tendered the relevant documents in their examination-in-chief and cross-examination was conducted by the revision-petitioner about the master plan and

applications. It was further averred in para 2 as follows:-

“2.Petitioner has already produced on record Ex. P-4, Ex. P-5, Ex. P-6, Ex. P-7 and Ex. P-8 in support of his case and the plans relied upon by the petitioner. The application is in the nature of a fishing inquiry which cannot be allowed at all on false and frivolous grounds. Filing of the application is nothing but an abuse of the process of the Court.”

6. Learned counsel for the revision-petitioner has argued that ejection of revision-petitioner has been sought for personal *bona fide* necessity by Dayanand Medical College and Hospital on the ground that a effluent treatment plant and electricity/power room for the new building of hospital is to be constructed for which Municipal Corporation, Ludhiana was approached, which asked for sparing space of 20 ft. to be left vacant on southern front side, which is mandatory under Rule 4.1 of the Municipal Building Bye Laws, 2010. Without constructing effluent treatment plant and electricity/power room, new constructed building cannot be used. Learned counsel for the revision-petitioner has submitted that by making amendment revision-petitioner wants to plead that effluent treatment plant has already been constructed, as such, requirement projected ceased to exist. Secondly by production of documents as sought, he wants to show that passage of 20 ft. as sought to be kept open by municipal authority is not in existence at the spot.

7. Rent Controller while declining application seeking amendment of written statement has observed that facts sought to be added are already admitted by the landlord in reply and the documents sought to be produced

are already on record. It is the landlord-respondent who is seeking ejectment of revision-petitioner from the demised premises and the entire onus is on them to prove their *bona fide* necessity. The facts regarding effluent treatment plant have been explained by the respondent in reply, which have been reproduced above. Similarly, facts regarding documents sought to be produced have also been explained. The onus is on the respondent to prove that the demised premises in possession of the revision-petitioner are required for *bona fide* need of the landlord-respondents. They have to prove the case as per their pleadings. The documents have already been produced by the landlord to prove its case and if anything is left, the tenant can always find a *lacunae* in the pleadings and evidence led by the landlord.

8. Rent Controller has rightly observed that amendment as sought by the revision-petitioner is not required for just decision of the ejectment application and so is the case of documents sought to be produced by him.

9. I find no reason to interfere with the order passed by learned Rent Controller. This revision petition has no merit and the same is dismissed.

November 04, 2016

jk

(SURINDER GUPTA)

JUDGE

Whether speaking/Reasoned

Yes/No

Whether Reportable

Yes/No